

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY COUNCIL OF THE CITY OF ST. PAUL

In the Matter of the Grocery (C) and
Cigarette/Tobacco Licenses held by
Ahmed Ibrahim d/b/a Mona's for the
premises located at 920 Selby Avenue in
St. Paul, License No. 19980006796

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson serving as hearing officer for the St. Paul City Council on May 3, 2001, at 9:30 a.m. in Room 220 of the St. Paul City Hall. Virginia D. Palmer, Assistant City Attorney, 400 City Hall, 15 West Kellogg Blvd., St. Paul, MN 55102, appeared on behalf the St. Paul Office of License, Inspections and Environmental Protection (LIEP). Steven P. Lundeen, Attorney at Law, Lundeen Law Offices, 200 Karmel Square, 2942 Pillsbury Avenue South, Minneapolis, Minnesota 55408, appeared on behalf of Ahmed Ibrahim d/b/a Mona's. The record in this matter closed at the conclusion of the hearing on May 3, 2001.

NOTICE

This Report is a recommendation, not a final decision. The St. Paul City Council will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions and Recommendation. Under Section 310.05(c)(c-1) of the City's Legislative Code, the City Council will provide the licensee an opportunity to present oral or written argument to the City Council before it takes final action. Parties should contact the St. Paul City Council to determine the procedure for presenting argument.

STATEMENT OF ISSUE

Should the St. Paul City Council take adverse action against the grocery and cigarette/tobacco licenses held by the Licensee on the grounds that the certificate of occupancy for the licensed premises has been revoked?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The City of Saint Paul has issued Grocery (C) and Cigarette/Tobacco licenses to Abdulhadi Abraham d/b/a Mona's for leased premises located at 920 Selby

Avenue, St. Paul. These licenses are now held by Ahmed Ibrahim, who is the son of Abdulhadi Abraham.^[1]

2. On or about December 21, 2000, the building containing Mona's located at 920 Selby Avenue was inspected for renewal of the Certificate of Occupancy. Numerous deficiencies were noted in an inspection report dated December 27, 2000, and the City determined that the building "is not being maintained to property maintenance standards or safety code." By letter dated December 27, 2000, the City's Department of Fire and Safety Services, Division of Fire Inspection, notified Edward Hayes (the registered owner of the premises at that time) that it had become necessary to revoke the Certificate of Occupancy for the building. The Certificate of Occupancy was, in fact, revoked for the reasons set forth in the inspection report.^[2]

3. On March 1, 2001, the Assistant City Attorney issued a Notice of Violation letter to Abdulhadi Abraham. The letter indicated that LIEP had recommended adverse action against the licenses held by Abdulhadi Abraham d/b/a Mona's for the premises located at 920 Selby Avenue in St. Paul because the Certificate of Occupancy was revoked on December 27, 2000. The letter noted that, pursuant to the Saint Paul Legislative Code, it is a basis for adverse action if the premises occupied by the licensed business do not comply with applicable health, housing, fire, zoning and building codes and regulations. The letter directed Mr. Abraham to notify the City if these facts were disputed and stated that, in that event, an evidentiary hearing before an Administrative Law Judge would be scheduled.^[3] When the City did not receive any response to the March 1, 2001, letter, it notified the Licensee by letter dated March 21, 2001, that the matter had been scheduled for consideration by the City Council on April 11, 2001, as an uncontested matter.^[4]

4. Counsel for the Licensee sent the Assistant City Attorney a letter dated March 23, 2001, in which he indicated that Abdulhadi Ibrahim never received the March 1, 2001, Notice of Violation letter from the City, and requested that the matter be removed from the consent agenda and be set for an evidentiary hearing before an Administrative Law Judge. The letter further indicated that Mr. Ibrahim had corrected all of the items in the inspection report dealing with his tenancy and was requesting another inspection.^[5] The Assistant City Attorney thereafter removed the matter from the consent agenda and afforded the Licensee the opportunity to arrange a date for an administrative hearing.^[6]

5. The building located at 920 Selby Avenue was reinspected in April of 2001 at the request of Stacy Robinson, the new owner of the building. At that time, a number of items on the December 27, 2000, inspection report list still needed to be corrected.^[7]

6. On April 6, 2001, the City issued a Notice of Hearing regarding adverse action against the licenses. The Notice of Hearing scheduled the hearing for May 3, 2001.^[8]

7. The Certificate of Occupancy for the licensed premises has not been reinstated. No Certificate of Occupancy would be issued with respect to the premises as they were as of the day of hearing.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The City Council of the City of St. Paul and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. § 14.55 and Saint Paul Legislative Code §§ 310.05 and 310.06.

2. The City of St. Paul has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Section 310.06(b)(3) of the Saint Paul Legislative Code provides that the City Council is authorized to take adverse action against licenses or permits if "the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations."

4. The parties have stipulated that the Certificate of Occupancy for the licensed premises has been revoked and not reinstated. The Certificate of Occupancy was revoked based in part upon the determination of the City's Department of Fire and Safety Services that the building "is not being maintained to property maintenance standards or safety code."

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: that the Saint Paul City Council revoke the grocery and cigarette/tobacco licenses held by Ahmed Ibrahim for the premises located at 920 Selby Avenue in Saint Paul.

Dated: May 21, 2001

BARBARA L. NEILSON
Administrative Law Judge

Reported: Taped, No Transcript Prepared.

NOTICE

The City is respectfully requested to provide a copy of its final decision to the Administrative Law Judge by first class mail.

MEMORANDUM

The parties stipulated that the Certificate of Occupancy for the building in which Mona's is located was revoked in December of 2000 for the reasons specified in the inspection report and that the Certificate of Occupancy has not been reinstated. The parties further stipulated that, based on the condition of the building as of the day of the hearing, it would not be appropriate to issue a Certificate of Occupancy. It is clear under the Saint Paul Legislative Code that the City Council is authorized to take adverse action against licenses or permits if "the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations." Accordingly, if the new owner of the building has not taken appropriate action to correct the deficiencies and have the Certificate of Occupancy re-issued, it is recommended that the City take adverse action against the licenses held by Mr. Ibrahim.

B.L.N.

^[1] Ex. 2; Stipulation of the Parties.

^[2] Ex. 1; Stipulation of the Parties.

^[3] Ex. 3.

^[4] Ex. 4.

^[5] Ex. 5.

^[6] Ex. 6.

^[7] Stipulation of the Parties.

^[8] Ex. 7.